555 Eleventh Street, N.W., Suite 1000
Washington, D.C. 20004-1304
Tel: +1.202.637.2200 Fax: +1.202.637.2201
www.lw.com

LATHAM & WATKINS LLP

FIRM / AFFILIATE OFFICES

Beijing	Moscow
Boston	Munich
Brussels	New York
Century City	Orange County
Chicago	Paris
Dubai	Riyadh
Düsseldorf	Rome
Frankfurt	San Diego
Hamburg	San Francisco
Hong Kong	Seoul
Houston	Shanghai
London	Silicon Valley
Los Angeles	Singapore
Madrid	Tokyo
Milan	Washington, D.C.

August 13, 2018

VIA ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: ***Update to Parts 2 and 25 Concerning Non-Geostationary, Fixed-Satellite Service Systems and Related Matters*, IB Docket No. 16-408**

Dear Ms. Dortch:

In recent weeks, Telesat and OneWeb have reiterated their request that the Commission abandon the solution it adopted in order to ensure that multiple NGSO FSS systems can serve the United States—the use of band segmentation to resolve inline events between NGSO FSS systems when affected operators do not otherwise agree on another approach.[1] Telesat and OneWeb urge the Commission to instead rely on ITU priority—an approach the Commission specifically rejected in the *NGSO Order* because it would pick a single "winner," deny equal access to other systems, and thereby undermine spectral efficiency and competition.[2]

Putting aside for the moment that relying on ITU priority serves only the interests of Telesat and OneWeb, their advocacy relies heavily on the false premise that satellite operators would need access to "real-time data" in order to determine when an in-line event has occurred (requiring the use of band segmentation). As Viasat explained in its letter of May 14, 2018: (i) the *NGSO Order* defines in-line events based on whether the ΔT/T "trigger" would exceed 6 percent; and (ii) operators typically calculate increases in ΔT/T using modeled parameters based on inputs exchanged well in advance.[3] In other words, operators will *not* need to rely on "real-time data" in implementing the band-segmentation mechanism the Commission adopted.

---

1 *See, e.g.,* Letter from Telesat Canada and WorldVu Satellites Limited d/b/a OneWeb to FCC, IB Docket No. 16-408 (June 20, 2018) ("June 20 Letter"); *see also Update to Parts 2 and 25 Concerning Non-Geostationary Fixed-Satellite Service Systems and Related Matters*, 32 FCC Rcd 7809, at ¶ 49 (2017) ("*NGSO Order*").

2 *See NGSO Order* ¶ 50.

3 *See* Letter from Viasat, Inc. to FCC, IB Docket No. 16-408 (May 14, 2018).

Telesat and OneWeb attempt to rehabilitate their position by suggesting that there is a distinction between the "data required to use ΔT/T as a coordination trigger . . . and the real-time data required to implement the Commission's band-splitting rule."[4] But this assertion is entirely conclusory; simply asserting that "real-time data" are required in the latter (but not the former) case does not make it so. Telesat and OneWeb provide no basis for drawing such a distinction, and no basis for discounting the analysis provided by Viasat.

Equally misguided is the suggestion that the *NGSO Order* contemplates the need for operators to exchange "real-time data" because it characterizes the 6 percent ΔT/T trigger as a "flexible mechanism that is specific to the particular interference situation and systems involved."[5] This analytical leap is entirely unsupported, and the *NGSO Order* makes clear that the Commission characterized the 6 percent ΔT/T trigger as: (i) "flexible" because it could account for significant variations in system design—in contrast to a trigger based on a fixed separation angle, which had been "shown to not address all of the varieties of new proposed systems;"[6] and (ii) "specific" because it could account for "each specific system design in any band."[7] At the same time, the *NGSO Order* describes the 6 percent ΔT/T trigger as the "best method for characterizing the situations in which there is *potential* for interference between NGSO FSS systems,"[8] reflecting the expectation that predictive modeling would be used to satisfy the Commission's requirement.

In short, there is no basis for concluding that the band-segmentation approach would require the exchange of "real-time data" (let alone that this would be "unworkable").

Moreover, there is no good reason to abandon the band-segmentation approach in favor of one based on ITU priority. The *NGSO Order* adopts band segmentation because: (i) it is merely an interim/default mechanism to be used in those instances in which coordination is not yet completed;[9] (ii) in the longer term, band segmentation encourages coordination among operators and thus facilitates the "best opportunity for efficient spectrum sharing," consistent with the Commission's spectrum management policies;[10] (iii) such coordination should ultimately address any issues with band segmentation;[11] and (iv) during the interim period, band

---

4 June 20 Letter at 1-2.

5 *See* June 20 Letter at 2 (citing *NGSO Order* ¶ 49) (emphasis omitted).

6 *NGSO Order* ¶ 49.

7 *Id.* ¶ 52.

8 *Id.* ¶ 49 (emphasis supplied).

9 *Id.* ¶ 49.

10 *Id.* ¶ 48.

11 *See id.* ¶ 48 n.111 (noting that coordination "offers the best means to mitigate potentially unequal burdens for smaller NGSO FSS systems or those in highly elliptical orbits" resulting from band segmentation).

segmentation still provides multiple operators with "equal access to spectrum" and otherwise encourages investment in and competition between multiple NGSO systems.[12]

In contrast, relying on ITU priority as suggested by Telesat and OneWeb would create a host of ills and undermine efforts to encourage intersystem coordination, as the Commission recognized in the *NGSO Order*.[13] Among other things, this approach would: (i) pick a single "winner" while providing inferior spectrum access to all other systems and calling into question whether those systems would have access to sufficient spectrum; (ii) unduly chill investment in non-"winning" systems; (iii) potentially delay the provision of service to the public if the "winner" does not deploy its system; and (iv) undermine incentives for the "winning" system to accommodate competing systems and enter into good-faith coordination discussions.[14] Again, as noted above, the approach advocated by Telesat and OneWeb would benefit only Telesat and OneWeb—which is hardly a coincidence.

Furthermore, as the *NGSO Order* notes, "coordination between . . . U.S. systems is a domestic matter and not subject to ITU rules."[15] The Commission has adopted other spectrum sharing requirements that do not rely on ITU priority; namely, the terms for the coexistence of NGSO and GSO systems in a portion of the Ka band. Given that, it would be incongruous with Commission policy to change course here, reject band segmentation, and instead adopt an NGSO-NGSO coexistence rule that relies entirely on ITU priority.[16]

Respectfully submitted,

/s/ John P. Janka
John P. Janka
Elizabeth R. Park
Jarrett S. Taubman

Counsel to Viasat, Inc.

---

12 *Id.* ¶ 49.

13 *Id.* ¶ 50.

14 *Id.*

15 *Id.*

16 *See* Letter from Viasat, Inc. to FCC, at 2 (Apr. 23, 2018) (noting, as a rhetorical point, that under Telesat's and OneWeb's logic, if the FCC were to rely on ITU priority for NGSO-NGSO coexistence, it should also base its terms for GSO-NGSO coexistence on ITU priority).

LATHAM&WATKINS LLP

cc: Rachael Bender
Erin McGrath
Will Adams
Umair Javed
Tom Sullivan
Troy Tanner
Jim Schlichting
Jennifer Gilsenan
Jose Albuquerque
Karl Kensinger
Stephen Duall
Sylvia Lam
Chris Bair